



KENTUCKY BOARD OF PHYSICAL THERAPY

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Governor

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Rebecca E. Klusch
Executive Director

MINUTES OF MEETING May 21, 2009

Board Members Present:	Ron Barbato, PT, Chair Peggy Block, PT, Chair-elect Charles Clark, PT Margaret Blain, PT Troy Grubb, PT Virginia Johnson, Public Member
Board Staff:	Rebecca E. Klusch, Executive Director
Board Absent:	Janice Kuperstein, PT
Board Agents:	Mark Brengelman, Assistant Attorney General, Board Counsel
Others:	Patrick Meyers, PT, KPTA Liaison Kristie Cochrane, PT

A meeting of the Kentucky Board of Physical Therapy Complaint Committee was called to order at 2:30 p.m., Wednesday, May 20, 2009, at Board Office. Motion was made by Ron Barbato to go into closed session per KRS 61.810(1) (c) and (j), seconded by Troy Grubb. Motion carried. Troy Grubb recused and left the room during discussion of BIC2009-07 and C2009-10. Motion was made by Ron Barbato to come out of closed session, seconded by Troy Grubb. Motion carried. The committee meeting adjourned at 5:30 p.m.

A meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Ron Barbato, at 9:20 a.m., Thursday, May 21, 2009, at the Board office. A quorum was present.

Motion was made by Troy Grubb, seconded by Virginia Johnson to approve the minutes as amended of the March 19, and May 13, 2009, Board meeting. Motion carried.

Margaret Blain remains as liaison to the KPTA, Troy Grubb rotates onto Complaint Committee, and Peggy Block will remain vice-chair.

Complaint Committee

Dubin Orthopaedic Centre, P.S.C v. Kentucky Board of Physical Therapy. The Supreme Court ruled in Dr. Dubin's favor. A *Petition for Rehearing* has been filed.

C2006-15 An *Agreed Order, Permanent Injunction and Final Judgment* has been signed by Tristin R. Thompson, D.C., Healing Hands Chiropractic Center, P.S.C. Case is closed.

C2007-30 *Kentucky Board of Physical Therapy v. Connie Rinckel, P.T.* A Notice of Administrative Hearing and Order has been filed.

C2008-07 Case is ongoing.

C2008-16 Notice of Administrative Hearing and Order has been filed. Case is ongoing.

BIC2008-19 Case is ongoing.

C2008-22 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2008-28 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed affidavit from Henry M. Eugenio, MD, Injury Medical Clinic, PSC. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2008-29 Case is ongoing. Melissa Metzger, Executive Counsel, and Mike Lorch, Vice President Health Care Management, appeared before the Board to discuss the misuse of the restricted words "physical therapy" in the Explanation of Benefits issued to policy holders.

C2009-01 A Verified Complaint for Injunctive Relief under KRS 327.990(3) in *Kentucky Board of Physical Therapy v. Robert Boardman, D.C.* has been filed. Case is ongoing.

C2009-02 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed affidavit from Clayton C. Elswick, D.C. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-03 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-04 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed affidavit from Christian J. Hay, D.C. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-06 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed affidavit from Eric "Rick" Hellmann, D.C. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2009-07 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-08 Case is ongoing.

C2009-09a The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-09b Case is ongoing

C2009-10 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Notice of Administrative Hearing and Order with settlement authority given to Board Counsel. The Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2009-11 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Private Admonishment for a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2009-12 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Private Admonishment for a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2009-13 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Private Admonishment for a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

BIC2009-14 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Private Admonishment for a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-15 A *Settlement Agreement and Grant of Certificate*, signed by Tiffany Cheek Risher was reviewed by the Board. Case is closed.

C2009-16 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-17 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and issue a Cease and Desist Affidavit if warranted. Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-18 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-19 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to dismiss case due to insufficient evidence of a violation of KRS 327 and approve the applicant for certification. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-20- The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Denial of Reinstatement and Notice of Administrative Hearing and Order due to being disciplined in Ohio. Settlement authority was given to Board Counsel. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting.

C2009-21 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee members Troy Grubb and Ron Barbato recused from voting.

Benjamin Warren, PT, filed an "Extension of Time for Completion of Continuing Competency Form" by the March 31 deadline to show continued competency for 2009 renewal, requesting the extension to July 1, 2009.

Nancy Cali, PT, filed an "Extension of Time for Completion of Continuing Competency Form" by the March 31 deadline to show continued competency for 2009 renewal, requesting the extension to July 1, 2009.

Renewal/Reinstatements- The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open investigations on twenty-six (26) licensees who failed to renew by March 31, 2009, and continued practicing physical therapy without a license. Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

The Board reviewed with approval the IPTPC report submitted by Brian Fingerson.

C9901 Malton Schexneider appeared before the full Board. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the *Conditional Reinstatement of Licensure and Amended 2001 Order and Settlement Agreement* signed by Malton A. Schexneider for a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato and Troy Grubb recused from voting. The Board appointed Chuck Clark as monitor for Mr. Schexneider.

A motion was made by Chuck Clark, seconded by Virginia, to approve KD, PTA exam candidate, to allow ADA accommodations when taking the NPTE. Motion carried.

Update on Monitoring Probations

Update on monitoring probations was given for the following with approval: Matt Jones, PT, April Coldiron, PT, James Rick Roe, PT, Ron Cole, PT and Mary Beth Barcus, PT.

Board and Administrative Business

The Board discussed several matters concerning practice: PTA's may cast for orthotics if competent and been trained. Gathering data in a functional capacity evaluation (FCE) is considered an evaluative measure. Therefore, an ATC or any other supportive personnel shall not gather the data because it is an evaluation measure.

Lisa Cox's question concerning a Physical Therapist Clinical Fellowship Instructor licensed in another state providing instruction to a post-professional student fulfilling clinical fellowship hours in Kentucky was discussed. KRS 327.050 (10)(c) states: *This chapter shall not be construed to affect or prevent: (c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days...* The Board concluded that this may be accumulated days, not necessarily consecutive days.

Terry Gee asked whether a Physical Therapist may take referrals from an audiologist. Kentucky has Direct Access and it is not necessary to get a referral.

Gail Freidhoff, PT posed a question concerning waiving co-pay only for regular insurance patients on an individual basis, discount physical therapy charges to regular insurance patients

on an individual basis, and accept co-pay only for patients insured by a company for whom the clinic is not in the network and not bill the insurance company. The Board's response is limited only within what a Physical Therapist and Physical Therapist Assistant can and cannot do under KRS 327. However, it is recommended to check with individual carriers.

Laura Duncan, PT, asked the Board whether a non-PT could make modifications to the Plan of Care including certification period dates, frequency and duration. After discussion, the Board determined that a non-PT person cannot make modifications to a POC or change the evaluation date.

The Board is to examine the opinions of the Board from the past and remove them if they are irrelevant.

The 2009-11 Jurisprudence Exam was reviewed and finalized for publication.

Other Board Matters

FSBPT Annual Meeting in San Diego, CA October 1-4, 2009. Peggy Block made a motion, seconded by Virginia Johnson to fund Margaret Blain as delegate, Janice Kuperstein as alternate-delegate, Charles Clark attendee and Becky Klusch as administrator, to attend. Motion carried.

CAC June 17, 2009 in San Francisco, CA or CAC Annual Meeting October 28-30 in Orlando- no board or staff will be attending.

CLEAR Conference in Denver, CO September 10-12, 2009 –no board or staff will be attending.

FARB Attorney Certification Seminar in Chicago, IL October 2-4, 2009. Margaret Blain made a motion, seconded by Peggy Block to fund Troy Grubb and Ron Barbato to attend. Motion carried.

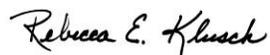
Janice Kuperstein, Peggy Block, and Virginia Johnson will attend the NCIT Investigative Training June 1-3, 2009, in Louisville.

Board members reviewed the lists of persons issued a license, certificate as well as examinees and reinstatements since the last meeting. Lists are attached to these minutes.

The Board reviewed the financial statement ending April 30, 2009.

A motion was made by Virginia Johnson, seconded by Charles Clark to adjourn the meeting at 4:40 p.m. Motion carried.

Respectfully submitted,



Rebecca E. Klusch
Executive Director